

and hence shared transport, orders on time.¹ Bell Atlantic-NY also indicates it has provided CLECs with more than 325 dedicated interoffice facilities arrangements and that it is meeting the due dates for completion at a rate that exceeds the rate for meeting due dates for itself.² Bell Atlantic-NY concludes that it is providing local transport on a non-discriminatory basis.³

B. Competitors' Positions

Parties claim that Bell Atlantic-NY does not provision unbundled transport in a timely manner.⁴ Northpoint and ACI further claim that Bell Atlantic-NY does not test its transport facilities to ensure that the transport facilities function.⁵ Northpoint contends that Bell Atlantic-NY inappropriately places orders in "customer-not-ready" status, which hinders the CLEC's ability to provide service to its customers.⁶ Northpoint claims that this inappropriate

¹ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Tab 1, ¶68.

² BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Tab 1, ¶¶108, 109.

³ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx.A, Tab 1, ¶114.

⁴ Northpoint Brief (August 17, 1999), BA-NY Application, Appdx. C, Vol. 61, Tab 944, p. 7; ACI Brief (August 17, 1999), BA-NY Application, Appdx. C, Vol. 61, Tab 957, pp. 18, 19; ChoiceOne Brief (August 17, 1999), BA-NY Application, Appdx. C, Vol. 61, Tab 945, p. 5; RCN Brief (August 17, 1999), BA-NY Application, Appdx. C, Vol. 61, Tab 943, p. 9.

⁵ Northpoint Brief, supra, p. 7; ACI Brief, supra, p. 19.

⁶ Northpoint Brief, supra, p. 8.

status allows Bell Atlantic-NY to delay its provisioning without reporting its performance as late under the metrics.¹

Finally, Northpoint states that Bell Atlantic-NY will not make unbundled transport facilities available to CLECs unless they are spare² and, therefore, CLECs must purchase special access, which is more costly.³

III. Findings

A. Legal Obligation to Provide Checklist Item

The company currently provides unbundled local transport pursuant to interconnection agreements and tariff.⁴

B. Verification of Checklist Compliance

We find that, for the following reasons, Bell Atlantic-NY is in compliance with this Checklist item. Although before July, Bell Atlantic-NY's on-time performance for interoffice facilities was hindered by a backlog in construction relative to demand, Bell Atlantic-NY now states that it currently has no backlog of transport orders because it has the capacity to fill them.⁵ Bell Atlantic-NY has undertaken construction of an additional 230 SONET rings by

¹ Id.

² Northpoint Brief, supra, p. 7.

³ Id.; ACI Brief, supra, at 18.

⁴ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Tab 1, ¶106.

⁵ BA-NY Lacouture/Troy Declaration. (September 21, 1999), BA-NY Application, Appdx. A, Tab 1, ¶109.

the end of 1999, of which 100 were completed in the first half of 1999.¹ These efforts have borne fruit as Bell Atlantic-NY's on-time completion rate for unbundled transport in August of 87% exceeded its own completion rate of 82% for comparable retail orders.² Therefore, we find that Bell Atlantic-NY is currently provisioning unbundled transport orders at parity.

Bell Atlantic-NY has addressed the claim, made by Northpoint and ACI, that it fails to test the transport facilities. It has recently initiated a new procedure for coordinated sectionalization testing of interoffice facilities (IOF) DS3 circuits. Bell Atlantic-NY also states that the same procedures are used for CLECS as its uses for its own facilities.³ We find that Bell Atlantic-NY has adequately addressed this issue.

Bell Atlantic-NY has also addressed Northpoint's charge related to inappropriately placing CLEC orders in "customer-not-ready" status. Bell Atlantic-NY undertook an evaluation of those Northpoint orders that Northpoint claimed at the July technical conference were delayed. Some of those orders, according to Bell Atlantic-NY, were out-of-state orders. Based upon a reconciliation between Bell Atlantic-NY and Northpoint of the New York orders, the parties agreed that Bell Atlantic-NY's classification was correct.⁴

¹ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Tab 1, ¶110.

² BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Tab 1, ¶109, citing Carrier to Carrier Reports (Dowell and Canny Decl. Att. D).

³ BA-NY, Albert, et al. Joint Supplemental Affidavit Update (June 7, 1999), BA-NY Application, Appdx. C, Vol. 49, Tab 755, ¶45.

⁴ BA-NY, Albert, et al. Affidavit (July 1, 1999), BA-NY Application, Appdx. C, Vol. 53, Tab 819, ¶37.

With respect to ACI's and Northpoint's contention that Bell Atlantic-NY requires CLECs to purchase special access when there are no facilities available, we are satisfied that Bell Atlantic-NY is not provisioning transport in a discriminatory manner. The Commission has determined that the provision of unbundled interoffice facilities to CLECs by the incumbent LEC is limited to existing LEC facilities.¹ Although Bell Atlantic-NY need not construct new routes, in such instances where it has an existing route even though it has no spare facilities, Bell Atlantic-NY will provide interoffice facilities and will also provide a firm order commitment identifying the earliest date when the request can be fulfilled.²

Finally, Bell Atlantic-NY has also committed itself to modifying its unbundled transport offerings to provide "dark fiber" to CLECs as a form of unbundled transport once the Commission's order in Docket No. 96-98 is effective.³

* * *

For the foregoing reasons, we verify compliance with the requirements of Checklist item (v).

¹ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, (rel. August 8, 1996) (Local Competition First Report and Order) ¶451.

² BA-NY, Albert, et al. Joint Supplemental Reply Affidavit (May 5, 1999), BA-NY Application, Appdx. C, Vol. 46, Tab 709, ¶116.

³ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Tab 1, ¶107.

Checklist Item (vi)--Unbundled Local Switching

I. The Legal Standard

A. The 1996 Act

Checklist item (vi) requires that a BOC provide "[l]ocal switching unbundled from transport, local loop transmission, or other services."¹

B. FCC Orders

The Commission has defined local switching to include line-side and trunk-side facilities, plus the features, functions and capabilities of the switch.² The features, functions, and capabilities of the switch include the basic switching function as well as the same basic capabilities that are available to the incumbent LEC's customers.³ Local switching also includes all other vertical features that the switch is capable of providing, and any technically feasible customized routing functions.⁴

A BOC must also make available trunk ports on a shared basis, and routing tables resident in the BOC's switch, as necessary to provide access to shared transport functionality.⁵

¹ 47 U.S.C. §271(c)(2)(B)(vi).

² Local Competition First Report and Order, ¶412.

³ Id.

⁴ Id.

⁵ Second BellSouth Louisiana Order, ¶209.

C. State Application of the Legal Standard

Under the Pre-filing Statement, Bell Atlantic-NY must provide switching as part of the UNEP, under certain circumstances.¹ If this requirement does not meet or exceed those in the FCC decision upon the Rule 319 remand, Bell Atlantic-NY has committed to comply with all FCC requirements.

II. The NYPSC Record

A. Bell Atlantic-NY's Position

Bell Atlantic-NY states that local switching elements are provided on an unbundled basis in New York through line side and trunk side ports, including all the capabilities available in the switch for the port type requested on a line by line basis, in accordance with interconnection agreements.² Bell Atlantic-NY states that local switching is also available on tandem switches, and the Network Design Request (NDR) process allows for the establishment of Line Class Codes (LCCs) and Office Dial Plans (ODPs) in end offices and the initial set up of the tandem switch translations.³ Bell Atlantic-NY claims that switching elements are provisioned on time and at parity.⁴ According to Bell Atlantic-NY, it has provided more than 152,000 unbundled local switching elements in New York.⁵

¹ Pre-filing Statement, BA-NY Application, Appdx. C, Vol. 28.

² BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶90.

³ Id., ¶¶95-98.

⁴ Id., ¶¶90, 92-94.

⁵ Id., ¶91. BA-NY states that all but 50 of these were provided as part of platforms including loops. Id.

B. Competitors' Positions

Earlier in the proceeding, AT&T claimed that Bell Atlantic-NY failed to provide adequate information to demonstrate if switching was functioning as required.¹ MCI was concerned about the delivery intervals for network design requests (NDRs) and the inordinate length of time to complete the NDR process.² MCI also complained about the lack of Feature Group D signalling for operator services and directory assistance.³ These issues were not pursued more recently, in briefs or in oral argument. MCI, in the July technical conference, questioned Bell Atlantic-NY's ability to properly configure its switches to allow all customers to reach 911.⁴

C. KPMG Findings

In its April 19, 1999 draft report, KPMG issued an exception related to procedures for addressing errors in implementing NDRs.⁵ Specifically, KPMG found that Bell Atlantic-NY's NDR process lacked tracking and quality control elements needed to ensure that services were

¹ AT&T Halloran Affidavit (September 25, 1998), BA-NY Application, Appdx. C, Vol. 35, Tab 523, ¶34.

² MCI Guariglia, *et al.* Joint Affidavit (September 28, 1998), BA-NY Application, Appdx. C, Vol. 34, Tab 522, ¶¶74-78.

³ *Id.*, ¶79.

⁴ Tr. 3305-07, BA-NY Application, Appdx. C, Vol. 57, Tab 882.

⁵ KPMG Draft Final Report (April 19, 1999), BA-NY Application, Appdx. C, Vol. 42b, Tab 652, Table VII-5.4, R5.1-4.

supplied correctly.¹ For example, no test orders had been submitted to ensure that services were implemented as ordered.²

In May 1999, Bell Atlantic-NY introduced new procedures for testing Line Class Codes for each NDR implemented and a tracking method managed by Service Delivery Engineers (SDEs) to ensure timely completion.³ In August, KPMG revised its initial "not satisfied" evaluation to "satisfied, exception resolved," concluding that Bell Atlantic-NY had established procedures to track processing intervals and communicate progress through implementation.⁴ KPMG also concluded that Bell Atlantic-NY has procedures to ensure correct provisioning of services through the NDR process.⁵

III. Findings

A. Legal Obligation to Provide Checklist Item

Bell Atlantic-NY states that it provides local switching under its NYPSC approved 916 tariff and interconnection agreements.⁶ Interconnection agreements obligate Bell Atlantic-NY to provide unbundled switching elements.

¹ Id.

² Id.

³ KPMG Final Report (August 6, 1999), BA-NY Application, Appdx. C, Vol. 60c, Tab 916, Table VII 5.4, R5.1-4.

⁴ Id.

⁵ Id.

⁶ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶90 and Attachment B.

B. Verification of Checklist Compliance

Bell Atlantic-NY has demonstrated that it is providing unbundled switching elements in New York and unbundled tandem switching in accord with the requirements of §251(c)(3) and has satisfied the requirements of Checklist item (vi). Specifically, Bell Atlantic-NY has shown that it: (1) offers commercially reasonable numbers of switching elements in New York, including tandem switching; (2) provides switching under tariffs and approved interconnection agreements, through line-side and trunk-side facilities; (3) offers the same switching features, functions and capabilities to competitors as are available to Bell Atlantic-NY's customers; (4) offers to competitors all other vertical features of the switch and customized routing functions; (5) has established standardized procedures to track and provision switching elements in an orderly and timely manner, providing service as accurately and within intervals as if for Bell Atlantic-NY's retail operation; and (6) offers terminating usage data to all competing carriers so the competitor may bill for exchange access.¹

In response to MCI's complaint about the lack of feature Group D signalling for operator services and directory assistance, Bell Atlantic-NY stated that it does not use Feature Group D for this purpose in its own network.² Bell Atlantic-NY provided documentation from Nortel stating that Feature Group D signalling for local traffic was not available for its DMS-100 switches nor was such an upgrade in the development stage.³

¹ Id., ¶¶90-105.

² BA-NY Albert, et al. Joint Supplemental Affidavit (April 13, 1999), BA-NY Application, Appdx. C, Vol. 41, Tab 638, ¶260.

³ Id., ¶261.

In order to address concerns about its NDR process and the accuracy of provisioning, Bell Atlantic-NY has established a procedure to test switching capability for all unbundled switching elements that it provisions. This process has improved the provisioning process and NYDPS Staff is satisfied that this testing is adequate. CLEC concerns about the length of time required to implement the NDR process have also been addressed. Bell Atlantic-NY has established a generic NDR, referred to as "Option B," in each switch in the state.¹ This allows CLECs access to unbundled switching in a much shorter interval than they would receive if they went through the full NDR process. Option B is most useful for CLECs seeking to enter the market quickly to provide services similar to those offered by Bell Atlantic-NY. CLECs who desire a more customized switching platform still have the full NDR process available.

In response to the concern about 911, Bell Atlantic-NY has recently completed a test of specific customers' ability to call 911 via unbundled switching arrangements. Bell Atlantic-NY reported positive results of the test to MCI and Staff, who are satisfied that the earlier concerns expressed about access to 911 have been resolved.

* * *

For the foregoing reasons, we verify compliance with Checklist item (vi).

¹ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶97.

Checklist Item (vii)--911, E911, Directory Assistance, and Operator Call Completion Services

I. Legal Standard

A. The 1996 Act

Checklist item (vii) requires that a BOC provide "nondiscriminatory access to (I) 911 and E911 services; (II) directory assistance services to allow [competitors'] customers to obtain telephone numbers; and (III) operator call completion services."¹

B. FCC Orders

1. 911 and E911 Services

A BOC must provide nondiscriminatory access, at parity, to 911 and E911 services. The BOC "must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers."² A BOC must provide facilities-based competitors with 911 interconnection through the use of dedicated trunks from the requesting carrier's switching facilities to the applicable 911 control office, at parity with what the BOC provides to itself.³

2. Directory Assistance and Operator Services

The Commission concluded that the similarity between the wording of §271(c)(2)(B)(vii)(II) and (III) and that of §251(b)(3) meant that a BOC must be in compliance with the regulations implementing §251(b)(3) if it is to satisfy the requirements of

¹ 47 U.S.C. §271(c)(2)(B)(vii).

² FCC Memorandum Opinion and Order, CC Docket Number 97-137 (released August 19, 1997) (Ameritech Michigan Order), ¶256.

³ Id.

§271(c)(2)(B)(vii)(II) and (III).¹ Under §251, the requirement of nondiscriminatory access applies to rates, terms, and conditions of the access provided,² and access must be at least equal in quality to that of the providing LEC.³

All carriers must be able to access each LEC's directory assistance service and obtain a directory listing without regard to the carrier serving either the requesting customer or the customer whose listing is sought.⁴ In addition, the BOC must "provide nondiscriminatory access to the directory assistance service provider selected by the customer's local service provider, regardless of whether the competitor: provides such services itself; selects the BOC to provide such services; or, chooses a third party to provide such services."⁵ Where technically feasible, a BOC must make available unbranded or rebranded directory assistance services.⁶

With respect to operator services, a customer, regardless of its serving carrier, must be able to connect to a local operator by dialing "0" or "0+ the desired phone number".⁷ That access must be to the operator service provider selected by the customer's carrier, "regardless

¹ Second BellSouth Louisiana Order ¶240.

² 47 C.F.R. §51.217(a)(2)(i).

³ 47 C.F.R. §51.217(a)(2)(ii).

⁴ 47 C.F.R. §51.217(c)(3).

⁵ Second BellSouth Louisiana Order, ¶241, n. 765.

⁶ Local Competition First Report and Order, ¶¶537, 971; Local Competition Second Report and Order, ¶148.

⁷ Local Competition Second Report and Order, ¶¶112-118; see also 47 C.F.R. §51.217(c)(2).

of whether the competitor provides such service itself, selects the BOC to provide such services, or chooses a third party to provide such services."¹ Where technically feasible, a BOC must make available unbranded or rebranded operator services.²

C. State Application of Legal Standard

The New York Commission has required a local exchange carrier to provide access to directory information to all companies that request it for the purpose of publishing a directory or providing directory assistance on the same terms on which it provides access to its own directory publisher or directory assistance provider.³ This requirement extends to non-carrier directory publishers and directory assistance providers.⁴ The prices for such access are based on forward-looking costs;⁵ they are now in effect on a temporary basis and remain under review in the New York Commission's pending Network Elements pricing proceeding.⁶

To ensure that all directory assistance providers are able to provide directory assistance service at parity with the LEC, the New York Commission has required as well that LECs

¹ Second BellSouth Louisiana Order, ¶241, n. 767.

² Local Competition First Report and Order, ¶¶537, 971; Local Competition Second Report and Order, ¶128.

³ Cases 94-C-0095 et al., Local Competition Proceeding Order Regarding Directory Database Issues (issued July 22, 1998); Order Resolving Petitions for Rehearing and Clarification of July 22, 1998 Order Regarding Directory Database Issues and Directing Refiling of Tariffs (issued January 7, 1999)(the DDB Rehearing Order).

⁴ Id.

⁵ Id.

⁶ Id., referring rate issues to Cases 95-C-0657, et al. The Second Network Elements Proceeding, Case 98-C-1357, is now continuing review of directory assistance rates. See Case 98-C-1357, "Ruling on Scope and Schedule," (issued June 10, 1999).

provide names and addresses of non-published customers, with a designation that the number is not to be given out to the public.¹ The information is to be provided at no charge.² It is to be provided to non-LECs only if they agree to adhere to the New York Commission's privacy principles and to refrain from using the information for any purpose other than informing callers that a number is unlisted.³

II. The NYPSC Record

A. Bell Atlantic-NY's Position

1. 911 and E911 Services

For carriers that use Bell Atlantic-NY's switching, Bell Atlantic-NY states that it enters all necessary E911 data as if they were Bell Atlantic-NY data without identification of the service provider.⁴

For those carriers that have their own switches, Bell Atlantic-NY states that it offers an electronic interface that gives them the same ability that Bell Atlantic-NY has to input information.⁵

¹ DDB Rehearing Order, p. 15.

² New York Public Service Law §91(5).

³ DDB Rehearing Order, p. 15.

⁴ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶¶169-171.

⁵ Id., ¶165.

Bell Atlantic-NY states that, as of July 1999, it has provisioned 822 trunks to 26 CLECs to connect to Bell Atlantic-NY's 911/E911 tandems.¹ According to Bell Atlantic-NY, it provides these trunks within the standard intervals, and, during the past eight months of 1999, Bell Atlantic-NY's average installation interval for CLEC trunks was less than that for its own trunks.²

2. Directory Assistance and Operator Services

Bell Atlantic-NY states that it is providing Directory Assistance or the databases necessary for a CLEC to provide Directory Assistance on a non-discriminatory basis.³

For those competing carriers that choose to use Bell Atlantic-NY's Directory Assistance database, Bell Atlantic-NY offers the options of "read only" access to all listings or electronic download of the entire database, with updates of the same frequency and basic listing content as Bell Atlantic-NY's own directory updates.⁴ Bell Atlantic-NY states that its Directory Assistance services "are available with a CLEC's own brand, no brand, or BA-NY's brand."⁵

With respect to operator services, Bell Atlantic-NY's submission indicates that a customer, regardless of its serving carrier, can connect to a local operator by dialing "0" or

¹ Id., ¶163.

² Id., ¶¶163, 164.

³ Id., ¶¶176, 177, 179, 180.

⁴ Id., ¶¶176-177.

⁵ Id., ¶180.

"0+" 10 digits for collect, calling card and bill to third number calls.¹ Bell Atlantic-NY states that competing carriers have the option either to purchase operator call completion services or to establish their own operator call completion centers.² CLECs that purchase Bell Atlantic-NY's operator call completion services can obtain unbranded, rebranded or Bell Atlantic-branded operator services.³

B. Parties' Positions

Allegations by other parties that Bell Atlantic-NY failed to satisfy the requirements for this Checklist item have been addressed in Checklist item (viii) (White Page directory listings) and item (vi) (switching).

III. Findings

The record shows that Bell Atlantic-NY has a legal obligation to provide 911, E911, directory assistance, and operator services pursuant to tariff and interconnection agreements approved by the New York Commission or the Commission⁴ and that it is complying with that obligation.

A. 911 and E911 Services

Bell Atlantic-NY has shown the accuracy and integrity of the 911 database. As discussed under Checklist item (vi), Bell Atlantic-NY successfully completed a recent test of the 911 database.

¹ Id., ¶185.

² Id., ¶184.

³ Id., ¶185.

⁴ Id., ¶5.

B. Directory Assistance and Operator Services

Regarding directory assistance and operator services, Bell Atlantic-NY has shown that it provides nondiscriminatory access to the directory listings in its directory assistance databases and to operator services supplied by Bell Atlantic-NY.

As to access to Bell Atlantic-NY's directory assistance databases, Bell Atlantic-NY has demonstrated that it provides databases in a format that enables competitive carriers to establish and maintain their own DA databases. The evidence presented by Bell Atlantic-NY is uncontroverted.

Rates for directory assistance service are under the supervision of the New York Commission, and Bell Atlantic-NY declares that it is "meeting all New York regulatory requirements for Directory Assistance service."¹ This declaration applies equally to the requirement that Bell Atlantic-NY provide unlisted customers' names and addresses to competing carriers, provided they agree to adhere to the New York Commission's privacy principles.

Further, Staff confirms Bell Atlantic-NY complies with the FCC's rebranding requirements, in that it has shown that its method of rebranding results in nondiscriminatory access.

* * *

For the foregoing reasons we verify compliance with Checklist item (vii).

¹ Id., ¶182.

Checklist Item (viii)--White Pages Directory Listings

I. Legal Standard

A. The 1996 Act and FCC Orders

Section 271(c)(2)(B)(viii) requires a BOC to provide white pages directory listings of competitors' customers¹ and to do so in a nondiscriminatory manner.² "White pages" means "the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider"³; "directory listings" includes "at a minimum, the subscriber's name, address, telephone number, or any combination thereof."⁴

B. State Application of the Legal Standard

Bell Atlantic-NY provides white pages directory listings both to its own and to CLECs' residential customers pursuant to tariffs, as well as interconnection agreements.

¹ 47 U.S.C. §271(c)(2)(B)(viii).

² 47 U.S.C. §251(b)(3). The term "directory listing" as used in §251(b)(3) is comparable to "white pages directory listing" as used in §271(c)(2)(B)(viii) and "subscriber list information" as used in §222(f)(3). Second BellSouth Louisiana Order, ¶252. Section 222(f)(3) defines "subscriber list information":

"any information (A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses or classifications; and (B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format."

47 U.S.C. §222(f)(3)(A),(B).

³ Second BellSouth Louisiana Order, ¶255.

⁴ Id.

II. The NYPSC Record

Generally, Bell Atlantic-NY asserts it provides white pages directory listings for each residential and business customer and yellow pages directory listings for each business customer served by a CLEC at no charge, exceeding 340,000 white pages listings for competitive carriers.¹ It also asserts competitors' listings are provided in the same manner as its own, and that it ensures listings are not inadvertently dropped when a customer leaves Bell Atlantic-NY for a competitor.² Competitors currently express concern only as to Bell Atlantic-NY's asserted loss of a percentage of their customers' directory listings after a loop hot cut; no issues have been raised concerning directory listings for UNE-P or resale customers, and KPMG found a 0% failure rate for these order types.³

A. Directory Listings and the Hot Cut Process

Competitors have complained about Bell Atlantic-NY's provisioning of directory listings for hot cut loops, claiming that Bell Atlantic-NY has not provided directory listings

¹ In the Status Ruling, the Administrative Law Judge found that BA-NY had "not provided directory proofs to competitors in a timely manner in the past" (BA-NY Application, Appdx. C, Vol. 9, Tab 111, p. 9). In response, BA-NY demonstrated it provided CLECs with a Listing Verification Report 90 days before publication of the directory in order to confirm the accuracy of their customers' entries (BA-NY Canny/Maguire Aff. (September 11, 1998), Id., Vol. 33, Tab 494). CLECs can also view the published listing data of all carriers, including BA-NY, through the Directory Listing Request option available through the Direct Customer Access Services (DCAS) system. An isolated complaint from MCI that BA-NY failed to provide it this data on time and that it could not access DCAS was resolved in 1998; no others have been proffered.

² BA-NY Application, pp. 30-31; BA-NY Application, Appdx. A, BA-NY Lacouture/Troy Aff., ¶¶193-195.

³ KPMG Closure Report, Exception 56.

on a nondiscriminatory, commercially reasonable basis when they place hot cut orders.¹

AT&T presented evidence at the July 1999 Technical Conference as to hot cut loop orders between July 1 and July 15, 1999, asserting that directory listings had dropped out of Bell Atlantic-NY's ATLAS database for more than 10% of a group of approximately 100 "migrate as is" orders, and were not available as of three, seven, or more business days after cutover.² In a subsequent affidavit, AT&T analyzed directory listings for 185 hot cut orders with number portability from August 26, 1999 to September 9, 1999. AT&T asserts that, of these orders, on the second business day after a hot cut, 38% of associated directory listings were missing from the Bell Atlantic-NY ATLAS database; by the third day after a hot cut, 15% were still missing; by the fifth day, 13.4% were still missing; and by the seventh day, nearly 11% remained missing from ATLAS (although, inexplicably, two listings could be obtained from 411).³

Bell Atlantic-NY concedes, in response, that listings for some orders were delayed during the period AT&T studied, but it asserts it has already acted to limit such errors.⁴ In addition, Bell Atlantic-NY notes that the establishment of directory listings was delayed during the AT&T study period by a service order processing system error that had stopped the automatic download of CLEC directory listings until Bell Atlantic-NY's quality assurance

¹ AT&T's Joint Supplemental Reply Affidavit of Richard E. Fish, Jr. and S. Jeannine Guidry, dated October 27, 1998, BA-NY Application, Appdx. C., ¶57,

² AT&T Connolly/Callahan Aff. ¶7, Tr. 4146, AT&T Brief, p. 14.

³ AT&T Connolly Aff. (September 27, 1999).

⁴ BA-NY Stevens Aff. (October 12, 1999), ¶3.

work team identified the error.¹ Bell Atlantic-NY also analyzes the data differently from AT&T, concluding 18 errors were identified by the quality review team or its system, but that correction was delayed; four were not identified. Bell Atlantic-NY modified its procedures in light of these results to identify potential errors earlier.

KPMG Exception 56 flagged this problem; in response Bell Atlantic-NY added training in the TISOC, modified its software, and established a quality assurance team to monitor directory listings after loop cutover. CLECs countered that the manual monitoring process was unwieldy and failed to detect the substantial number of listings dropped later than two days after provisioning. Competitors challenged the Bell Atlantic-NY software system, which first deletes and then restores the directory listing of customers in conjunction with hot cuts. KPMG concluded that the Bell Atlantic-NY system was reasonable.

KPMG did not retest by sending new orders, but reviewed a sample of CLEC listing orders and analyzed a sample of listing orders it selected from Bell Atlantic-NY systems. KPMG concluded that Bell Atlantic-NY had addressed the causes of UNE loop order directory listing failures. KPMG found a 94% success rate for UNE loop directory listings, which it adjusted to 99% based upon the Bell Atlantic-NY process modifications.²

NYDPS Staff also monitored the dropped listing problem. We are satisfied that the software modifications, the strengthened quality assurance team, and ongoing Staff oversight

¹ Id., ¶7.

² KPMG Closure Report, Exception 56.

ensure that Bell Atlantic-NY performance complies with the requirements of this Checklist item..

B. Nondiscriminatory Appearance and Integration of White Page Listings

Bell Atlantic-NY has demonstrated that it satisfies the FCC's requirements that a BOC "provide customers of competitive LECs with white page listings that are nondiscriminatory in appearance and integration."¹ No commenter has argued that Bell Atlantic-NY's white page listings for competitive LECs are not comparable in appearance to listings of Bell Atlantic-NY's customers.

C. Nondiscriminatory Accuracy and Reliability of White Page Listings

Bell Atlantic-NY had demonstrated that it satisfies the FCC's requirement that a BOC provide "white pages directory listings for a competing carrier's customers with the same accuracy and reliability that it provides to its own customers."² Bell Atlantic-NY has established a procedure of providing CLECs with the ability to confirm the accuracy of their customers' entries prior to publication in the directory.³

¹ Second BellSouth Louisiana Order, ¶256.

² Second BellSouth Louisiana Order, ¶257.

³ BA-NY's September 11, 1998 Affidavit, ¶52.

III. Findings

A. Legal Obligation to Provide Checklist Item

Based on Bell Atlantic-NY's tariff¹ and interconnection agreements with competitors, Bell Atlantic-NY has a concrete and specific legal obligation to provide white page listings to competitors' customers.

B. Verification of Checklist Compliance

Bell Atlantic-NY has demonstrated that it is providing white pages directory listings for customers of competitive LECs' telephone exchange service. Bell Atlantic-NY has shown that: (1) it provides nondiscriminatory appearance and integration of white page listings to customers of competitive LECs; and (2) it provides white page listings for competitors with accuracy and reliability comparable to that it provides its own customers. The quality control measures in place are adequate to ensure that unacceptable numbers of listings are not dropped.

* * *

For the foregoing reason, we verify compliance with Checklist item (viii).

¹ New York Telephone P.S.C. No. 914 - Telephone, Section 4.3.2; and New York Telephone P.S.C. No. 916 - Telephone, Section 5.6.1.

Checklist Item (ix)--Nondiscriminatory Access to Telephone Numbers

I. Legal Standard

A. The 1996 Act

Under §251(e), Congress required the Commission to create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. Checklist item (ix) recognizes the transition in numbering administration by requiring a Bell Operating Company to provide "nondiscriminatory access to telephone numbers" for assignment to competing carriers' telephone exchange service customers, "[u]ntil the date by which telecommunications numbering administration guidelines, plan, or rules are established." After that date, a BOC must show "compliance with such guidelines, plan or rules."¹

B. FCC Orders

Nondiscriminatory access to telephone numbers means that a local exchange carrier providing access to telephone numbers is required to give CLECs the same access to telephone numbers as it provides to itself.² The date that central office code responsibility is transferred from the BOC to an independent entity is the date numbering administration guidelines are established for the purpose of §271(c)(2)(B)(ix).³ Bell Atlantic-NY must show that, thereafter, it followed the industry's central office code administration guidelines and the

¹ 47 U.S.C. §271(c)(2)(B)(ix).

² Local Competition Second Report and Order, ¶¶332, 334, interpreting 47 U.S.C. §251(b)(3); 47 C.F.R. §51.217(c)(1).

³ Second BellSouth Louisiana Order, ¶261.

Commission rules, including accurate reporting of data to the central office code administrator.¹

II. The Record

A. Background

Administration over area codes and central office codes was transferred on a phased schedule to Lockheed Martin Information Management Services, selected as the North American Numbering Plan Administrator (NANPA). Lockheed Martin assumed responsibility for all new area code planning activities in February 1998. For those area codes in New York State for which relief planning was already underway -- 212, 718, 516 and 914 -- Bell Atlantic led the industry planning effort until March 1999, when Lockheed Martin assumed the leadership role.² Lockheed Martin also assumed full responsibility for all central office code assignments for the northeastern region, which includes New York State, on October 24, 1998.

B. Bell Atlantic-NY's Position

Bell Atlantic-NY states that, as of July 1999, 1068 NXX codes had been assigned to CLECs in New York, 767 of them by Lockheed Martin.³ Bell Atlantic-NY declares that, as a code applicant and holder, it adheres to the Central Office Code (NXX) Assignment

¹ Id., ¶265.

² BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶211.

³ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶212.

Guidelines and to the Commission's number assignment rules.¹ It also accurately reports numbering data to the CO code administrator, in accordance with the guidelines and the Commission's rules.²

C. Competitors' Positions

There have not been any recent competitor comments regarding BA's compliance with its numbering responsibilities.³

D. KPMG Findings

KPMG tested Bell Atlantic-NY's CO administration process, including its ability to handle NXX updates and changes. Following a re-test of Bell Atlantic-NY's systems, KPMG closed its exceptions to Bell Atlantic-NY's performance.⁴

¹ Id.

² Id.

³ In September of last year, Community Telephone asserted that it did not have the same access to gold or vanity numbers that BA-NY had. Community Telephone Kennedy Affidavit (September 24, 1998), BA-NY Application, Appdx. C, Vol. 34, Tab 511, ¶¶38-40. BA-NY denied this allegation. BA-NY Albert, et al., Joint Reply Affidavit (October 13, 1998), BA-NY Application, Appdx. C, Vol. 35, Tab. 529, ¶¶155-156. In its March 3, 1999 filing to identify outstanding issues, Focal Communication Corporation of New York (Focal) charged that Bell Atlantic-Pennsylvania had wreaked havoc on numbering administration in Pennsylvania. Comments of Focal Communications (March 3, 1999), BA-NY Application, Appdx. C, Vol. 40, Tab 598, p. 7-8. However, there is no indication that Focal's concerns apply in New York.

⁴ KPMG Closure Report for Exception 46 (July 22, 1999), BA-NY Application, Appdx. C, Vol. 36b, Tab 535; BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶216.

III. Findings

A. Legal Obligation to Provide Checklist Item

Prior to the transfer of central office code responsibility to Lockheed Martin, Bell Atlantic-NY had a legal obligation to make telephone numbers available on a nondiscriminatory basis under numerous interconnection agreements.¹ Following the transfer of CO code responsibility, Bell-Atlantic remains subject to the Commission's rules requiring compliance with code administration guidelines, as well as the duty under §251(b)(3) to permit non-discriminatory access to telephone numbers.

B. Verification of Checklist Compliance

Bell Atlantic-NY has demonstrated that it complies with the Commission's number assignment rules and INC Central Office Code Assignment Guidelines, and that it accurately reports data to the CO code administrator. Its compliance is supported by KPMG's findings and has not been rebutted by any other party.² Bell Atlantic-NY previously demonstrated in

¹ See, e.g., Interconnection Agreement between Bell Atlantic and AT&T, Section 22.1.6; Interconnection Agreement between Bell Atlantic and MCI, Section VII: 2.1.4; Interconnection Agreement between Bell Atlantic-NY and TCG, Section 14.0; Interconnection Agreement between Bell Atlantic-NY and MFS, Section 14.0; Interconnection Agreement between Bell Atlantic-NY and C-TEC, Section 14.0; Interconnection Agreement between Bell Atlantic-NY and WinStar, Section 14.0.

² Community Telephone's isolated complaint over a year ago was persuasively rebutted by BA-NY; in any event, it would not be sufficient to preclude a finding that BA-NY has satisfied this Checklist item.

our proceeding that, when acting as the code administrator, it adhered to industry guidelines and the FCC's requirements under §251(b)(3).¹

* * *

For the foregoing reasons, we verify compliance with the requirements of Checklist item (ix).

¹ BA-NY Garzillo Affidavit (February 14, 1997), BA-NY Application, Appdx. C, Vol. 2h, Tab 2, ¶76-77.

Checklist Item (x)--Nondiscriminatory Access to Databases and Associated Signaling

I. The Legal Standard

A. The 1996 Act

Checklist item (x) requires Bell Atlantic-NY to offer "[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion."¹

B. FCC Orders

In the Local Competition First Report and Order, the Commission identified signaling networks and call-related databases as network elements, and concluded that LECs must provide the exchange of signaling information between LECs necessary to exchange traffic and access call related databases."²

II. The Record

A. Bell Atlantic-NY's Filing

Bell Atlantic-NY asserts that it has demonstrated that it provides CLECs with non-discriminatory access to its SS7 signaling network and call-related databases, stating that CLEC signaling traffic is handled by Bell Atlantic-NY's signaling network in the same way as

¹ 47 U.S.C. §271(c)(2)(B)(x).

² 47 C.F.R. §51.319; Local Competition First Report and Order, ¶¶478, 479, 484. It does not appear that the Commission departed from this requirement in its September 15, 1999 ruling.

Bell Atlantic-NY's.¹ According to Bell Atlantic-NY, all signaling traffic is handled on a first-come, first-served basis.²

Bell Atlantic-NY also states that CLECs can access Bell Atlantic-NY's call-related databases.³ According to Bell Atlantic-NY, CLECs have access on a par with Bell Atlantic-NY's own access to the same features and functions of the Toll Free Database,⁴ the Line Information Database⁵ (and an optional part of this database, the Calling Name Database⁶), and Bell Atlantic-NY's Long-Term Number Portability Database.⁷ Moreover, all queries to these databases are handled in the same way.⁸

As to advanced intelligent network capabilities deployed in the Bell Atlantic-NY network, Bell Atlantic-NY states that access is provided to CLECs through access to Bell

¹ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶¶ 222, 224.

² Id., ¶225.

³ Id., ¶226.

⁴ The Toll Free Database enables a CLEC to determine how to route and complete a particular toll free call (an 800, 888, or 877 call). Id., ¶¶226-228

⁵ The Line Information Database enables CLECs that offer their own operator services the ability to obtain special billing and call restriction information associated with individual telephone numbers. Id., ¶229.

⁶ The Calling Name Database is used by CLECs to offer services that provide a caller's name on a display unit. Id., ¶234.

⁷ The Long-Term Number Portability Database is used by CLECs to determine how to route calls to telephone numbers that have been ported to another service provider. Id., ¶238.

⁸ Id., ¶¶228, 229, 231, 234, 236, 237, 238, 240.

Atlantic-NY's Service Management System Database/Service Creation Environment on a non-discriminatory basis, with CLEC queries and transactions handled in the same manner as those of Bell Atlantic-NY.¹ Bell Atlantic-NY also provides access to its advanced intelligent network for those CLECs that are interested in offering their own advanced services using the same processes used by Bell Atlantic-NY itself.² According to Bell Atlantic-NY, access to its service management system is provided to CLECs so that CLECs can enter, delete, or modify entries in other Bell Atlantic-NY databases.³

Bell Atlantic-NY states that, through August of 1999, 12 CLECs are interconnected directly with Bell Atlantic-NY's Signaling Transfer Point, while 22 CLECs obtain that access via hub providers.⁴ In addition, four CLECs are capable of accessing the toll-free database, four CLECs can access the Local Number Portability database, and seven CLECs have made arrangements to access the Calling Name Database.⁵

¹ Id., ¶¶241-247.

² Id., ¶245.

³ Id., ¶241.

⁴ Id., ¶222.

⁵ Id., ¶¶227, 239, 235.

B. Competitors' Positions

Earlier in the proceeding, RCN stated its concern that Bell Atlantic-NY had no diverse routing available for its SS7 connections, thus leaving RCN vulnerable to SS7 outages.¹ Subsequently, Bell Atlantic-NY established to RCN's satisfaction that RCN had been provided diverse routing.² RCN also claimed that it had not been able to obtain access to Bell Atlantic-NY's Customer Name Database and that Bell Atlantic-NY had no tariff, no technical description, no interface requirements, and no project manager for the offering. Thus, RCN concluded, Customer Name Database access was not actually being offered by Bell Atlantic-NY.³ In response, Bell Atlantic-NY claimed that "the tariff, documentation, and product manager are in place" and that Bell Atlantic-NY was working with RCN to provide it access.⁴ Bell Atlantic-NY also claimed it would work with any CLEC that requests the establishment of network-to-network access.⁵

¹ RCN Thompson Affidavit (June 28, 1998), BA-NY Application, Appdx. C, Vol. 34, Tab 517, ¶12.

² BA-NY Albert, *et al.* Affidavit, (October 13, 1998), BA-NY Application, Appdx. C, Vol. 35, Tab 529, ¶134; RCN Thompson Affidavit (October 23, 1998), BA-NY Application, Appdx. C, Vol. 37, Tab 540, ¶10. This was confirmed by NYDPS Staff in a telephone contact with RCN on November 19, 1998.

³ RCN Thompson Affidavit (June 28, 1998), BA-NY Application, Appdx. C, Vol. 34, Tab 517, ¶14.

⁴ BA-NY Albert, *et al.* Affidavit (October 13, 1998), BA-NY Application, Appdx. C, Vol. 35, Tab 529, ¶132.

⁵ *Id.*, ¶133.

III. Findings

A. Legal Obligation to Provide Checklist Item

Review of the interconnection agreements between Bell Atlantic-NY and its competitors shows that Bell Atlantic-NY has specific legal obligations to provide databases and signaling.¹ These commitments are also in NYPSC Tariff No. 916, §5.7.²

B. Verification of Checklist Compliance

Bell Atlantic-NY demonstrates that it is providing non-discriminatory access to databases and associated signaling necessary for call routing and completion and, thus, satisfies the requirements of Checklist item (x). Bell Atlantic-NY also shows that it provides requesting carriers (1) non-discriminatory access to signaling networks, including signaling links and signaling transfer points; (2) certain call-related databases necessary for call routing and completion, or in the alternative, a means of physical access to the signaling transfer point linked to the unbundled database; and (3) Service Management Systems. With the exception of two complaints by RCN, both of which have been resolved, Bell Atlantic-NY's evidence is uncontroverted.

* * *

For the foregoing reasons, we verify compliance with Checklist item (x).

¹ BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶¶220, 226, 229, 234, 238, 242, 245 & Attachment B; see generally BA-NY Application, Appdx. E.

² BA-NY Application, Appdx. H, Vol. 2, Tab 3.

Checklist Item (xi)--Number Portability

I. Legal Standard

A. The 1996 Act

Checklist item (xi)¹ requires that a BOC be in compliance with the FCC's number portability regulations promulgated pursuant to §251. Number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another."²

B. FCC Orders

A BOC must demonstrate that it will be able to implement long term portability in accordance with the FCC's schedule and must provide "adequate documentation that it has undertaken reasonable and timely steps to meet its obligations in this area."³ The Commission's long term number portability deployment schedule required LECs to implement long term number portability in the 100 largest metropolitan statistical areas (MSAs) in five phases by December 31, 1998.⁴ Beginning January 1, 1999, carriers must deploy long term number portability beyond the 100 largest MSAs within six months after another telecommunications carrier makes a request.⁵

¹ 47 U.S.C. §271(c)(2)(B)(xi).

² 47 U.S.C. §153(30).

³ Ameritech Michigan Order, ¶342.

⁴ 47 C.F.R. §52.23(b). See also Second BellSouth Louisiana Order, ¶290.

⁵ 47 C.F.R. §52.23(c).

The rules also require that interim number portability be in place until carriers can implement long term number portability consistent with the Commission's rules.¹

II. The Record

A. Bell Atlantic-NY's Position

Bell Atlantic-NY claims that it has implemented long term number portability (LNP) in all of its end offices in New York and provides LNP to CLECs under approved interconnection agreements and tariffs.² According to Bell Atlantic-NY, it has ported 137,000 telephone numbers through LNP arrangements for 23 CLECs and has met the due date on 98% of all the orders for pure LNP in April, May, June, July and August 1999.³

BA also states that it continues to maintain interim number portability (INP) capabilities for CLECs using INP until they can migrate to LNP under approved interconnection agreements and tariffs.⁴ Bell Atlantic-NY states it will follow "a mutually agreed-upon schedule" to change interim number portability arrangements with CLECs to long term number portability technology.⁵

¹ Telephone Number Portability First Report and Order, ¶¶110, 111 & 113.

² BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶¶248-250.

³ Id., ¶253.

⁴ Id., ¶254-256.

⁵ Id., ¶ 256.

B. Competitors' Positions

Early in the New York Proceeding, a number of competitors raised issues concerning number portability, primarily related to loop hot cut performance.¹ Recent filings have raised no issues related to this Checklist item.

III. Findings

A. Legal Binding Obligation to Provide Checklist Item

Bell Atlantic-NY has a binding obligation to provide interim and long term number portability in New York.²

B. Verification of Checklist Compliance

Bell Atlantic-NY has shown that is in compliance with this Checklist item. In contrast to earlier complaints, there have been no recent allegations that Bell Atlantic-NY fails to meet its obligations regarding this Checklist item.

* * *

For the foregoing reasons, we verify compliance with Checklist item (xi).

¹ These complaints were raised in the third quarter of 1998.

² BA-NY Lacouture/Troy Declaration (September 21, 1999), BA-NY Application, Appdx. A, Vol. 1, ¶¶248, 249.